

California Regional Water Quality Control Board
North Coast Region

Administrative Civil Liability Order No. R1-2007-0009

Mandatory Minimum Penalties

For
Violations of
Waste Discharge Requirements Order Nos. 98-50 and R1-2003-0044
NPDES No. CA0023027
WDID NO. 1B84086OHUM

In the Matter of

HUMBOLDT COUNTY RESORT IMPROVEMENT DISTRICT NO. 1
SHELTER COVE WASTEWATER TREATMENT FACILITY (WWTF)

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), having received from the Humboldt County Resort Improvement District No. 1, Shelter Cove (hereinafter Discharger) a waiver of the right to a hearing in the matter of mandatory minimum penalties pursuant to Water Code section 13385, subdivisions (h) and (i) for failure to meet effluent limitations as required by Waste Discharge Requirements Order Nos. 98-50 and R1-2003-0044 and associated monitoring and reporting programs, and having received the Discharger's request for the opportunity to implement a compliance project (CP) in lieu of a portion of the penalty prescribed, finds the following:

1. The Discharger owns and operates wastewater collection, treatment, and disposal facilities that serve the community of Shelter Cove in southwest Humboldt County. The WWTF provides secondary treatment and disinfection of effluent and discharges the treated waste to the Pacific Ocean via an outfall with a dilution ratio of 50:1. During the spring and summer months some or all of the effluent receives additional filtration and disinfection and is used for irrigation on the discharger-owned, nine-hole golf course.
2. The Regional Water Board adopted Waste Discharge Requirements for the Discharger, Order No. 98-50 on May 28, 1998 and reissued the expiring Order by adoption of R1-2003-0044 on May 15, 2003. The Orders serve as a National Pollutant Discharge Elimination System (NPDES) Permit No. CA0023027.

3. Among the provisions in the Discharger's waste discharge requirements are the requirements to implement a discharge monitoring program and to prepare and submit NPDES self-monitoring reports to the Regional Water Board pursuant to Water Code section 13383.
4. According to monitoring reports submitted by the Discharger, effluent limitations were violated thirteen times during the period from January 1, 2000 through April 30, 2006. The violations are primarily related to wet weather periods which result in excessive inflow and infiltration (I&I) from the collection system to the treatment plant. The diluted inflow to the plant makes it impossible to reliably meet the "percent removal" limitation contained in the NPDES Permit. Repair of the leaking collection system is necessary to prevent continued violations.
5. Water Code section 13385, subdivisions (h) and (i) require the Regional Water Board to assess mandatory minimum penalties in specific situations. Water Code section 13385, subdivision (k) allows the Regional Water Board to direct all or a portion of the penalty toward a CP in accordance with Section X of the State Water Resources Control Board's Water Quality Enforcement Policy (Enforcement Policy).
6. On August 22, 2006, the Executive Officer issued Administrative Civil Liability Complaint No. R1-2006-0094 (ACLC) assessing a mandatory minimum penalty of \$45,000 for effluent violations described in Finding No. 4 above. The Discharger waived its right to a public hearing and requested to pay the sum of \$3,000 to the State Water Pollution Cleanup and Abatement Account (SWPCAA) and spend the remaining sum of \$42,000 on a CP. The Discharger requested that the Regional Water Board include two additional violations of Total Suspended Solids percent removal that occurred in March and April 2006 that were not included in the ACLC. The two violations are included in this Order.
7. The proposed CP will identify and repair leaking sewer mains and manholes within the sewer collection system. A qualified underground pipe inspection service will be contracted to conduct video inspection of selected sections of the sewer collection system. The inspections will identify, document and locate broken sewer mains, leaking joints, leaking lateral connections and other problem areas that may be contributing to I&I. Repair locations will be prioritized and a qualified contractor will be hired to repair the damaged areas. The project will continue until the budgeted funds are expended. Planning for the project commenced in June of 2006, and construction will continue through the summer of 2007. \$65,000 has been budgeted for the video inspection and repair work.
8. A duly noticed public hearing on this matter was held before the Regional Water Board during a public meeting on March 15, 2007, in Eureka, California.

The documents for the agenda item were provided to the Discharger prior to the hearing and the Discharger was given the opportunity to testify and present evidence. The public was given an opportunity to comment.

9. The Regional Water Board finds that the CP, as proposed, meets the criteria established in the State Water Resources Control Board's Enforcement Policy.
10. The issuance of this Order is an enforcement action to protect the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code, §§ 21000-21177) pursuant to title 14, California Code of Regulations, sections 15308 and 15321, subdivision (a)(2).
11. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board to review the action in accordance with section 13320 of the Water Code and title 23, California Code of Regulations, section 2050. The petition must be received by the State Water Resources Control Board within thirty days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

THEREFORE, IT IS HEREBY ORDERED pursuant to Water Code section 13385 that:

1. The Discharger shall be assessed mandatory minimum penalties in the amount of \$45,000. The Discharger is paying the sum of \$3,000 into the SWPCAA to cover a portion of staff costs. The remaining sum of \$42,000 is eligible to be permanently suspended upon satisfactory completion of the CP as described in Finding 7 of this Order. The CP meets the criteria established in the State Water Resources Control Board's Enforcement Policy. The Discharger shall complete the CP and submit a report describing the work performed as follows:

| DATE | TASK |
|---|--|
| Calendar year 2007: Submit report no more than 60 days from the completion of the CP, in no event later than February 28, 2008. | The CP shall be complete. Prepare a final report certifying completion of the CP and an engineering judgment of the expected effectiveness of the CP. Include a post project accounting of all expenditures with proof of payment. |

2. If, after being given written justification from the Discharger, the Executive Officer determines that a delay in the CP implementation schedule is beyond the reasonable control of the Discharger, the Executive Officer may revise the implementation schedule as appropriate. Written justification must be

received by the Executive Officer before the specific due date occurs, must describe circumstances causing the delay, and must state when each task of the CP will be completed.

3. The penalty amount of \$42,000 shall be permanently suspended if the Executive Officer determines that the Discharger satisfactorily completes the CP and provides the Regional Water Board a final report as described in Finding No. 7.
4. Notwithstanding the issuance of this Order, the Regional Water Board shall retain continuing jurisdiction to determine compliance with progress and completion of the CP above, as well as the authority to assess additional penalties for other violations of the Discharger's Waste Discharge Requirements (NPDES Permit).

Certification

I, Catherine E. Kuhlman, Executive Officer,
do hereby certify that the foregoing is a full, true,
and correct copy of an Order adopted by the
California Regional Water Quality Control Board, North Coast Region
on March 15, 2007

Catherine E. Kuhlman
Executive Officer